IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

UNITED STATES OF AMERICA	)	
	)	NO. 3:18-cr-00270
v.	)	JUDGE RICHARDSON
	)	
TIMOTHY DEWAYNE GIFFORD	)	

ORDER

Before the Court is Defendant's Motion to Suppress (Doc. No. 32, "the Motion"). Via the Motion, Defendant seeks to suppress all evidence seized and statements taken on July 13, 2018. Defendant alleges law enforcement violated his Fourth, Fifth and Fourteenth Amendment rights by unlawfully stopping, arresting, and searching his person and the automobile he was driving.

Every circuit—except for the Sixth Circuit—has held that reasonable suspicion suffices to justify an investigatory stop for a traffic violation. *United States v. Simpson*, 520 F.3d 531, 540 (6th Cir. 2008) (collecting cases). The Sixth Circuit applies "the probable cause standard to 'completed' misdemeanor traffic violations." *United States v. Jeffries*, 457 F. App'x 471, 477 (6th Cir. 2012) (citing *United States v. Hughes*, 606 F.3d 311, 316 n.8 (6th Cir. 2010)). However, the Sixth Circuit applies the reasonable suspicion standard to misdemeanor traffic violations that are "ongoing." *Id*. (citing *Simpson*, 520 F.3d at 540).

To justify an investigatory stop on the basis of reasonable suspicion, an officer must point to "specific and articulable facts . . . taken together with rational inferences from those facts" that an individual was committing a violation of law. *United States v. Davis*, 430 F.3d 345, 353 (6th Cir. 2005) (quoting *United States v. Hill*, 195 F.3d 258, 264 (6th Cir. 1999)). In forming reasonable suspicion, officers may draw on their "experience and specialized training to make inferences from and deductions about the cumulative information available to them that 'might well elude an

untrained person.'" *United States v. Arvizu*, 534 U.S. 266, 273 (2002) (quoting *United States v. Cortez*, 449 U.S. 411, 418 (1981)). While a "mere hunch" is not enough, "the likelihood of criminal activity need not rise to the level required for probable cause, and it falls considerably short of satisfying a preponderance of the evidence standard." *Id.* (citations omitted).

If an officer has probable cause or reasonable suspicion to believe that a traffic violation has occurred or was occurring, the resulting stop is not unlawful and does not violate the Fourth Amendment, regardless of whether the traffic violation was the true motivation for the stop. *Heien v. North Carolina*, 135 S. Ct. 530, 539 (2014) (citing *Whren v. United States*, 517 U.S. 806, 813 (1996)).

A warrantless arrest that is supported by probable cause does not violate the Fourth Amendment. *Devenpeck v. Alford*, 543 U.S. 146, 152 (2004). "Probable cause exists where the facts, at the time of the arrest, were sufficient to lead a prudent person to believe that a crime had been committed or was in the process of being committed." *United States v. Jimenez*, 654 F. App'x 815, 819 (6th Cir. 2016) (citing *Klein v. Long*, 275 F.3d 544, 550 (6th Cir. 2001)). Whether probable cause exists "depends on the reasonable conclusions 'drawn from the facts known to the arresting officer at the time of the arrest.'" *Id.* (citing *Devenpeck*, 543 U.S. at 152).

The search incident to lawful arrest doctrine authorizes the warrantless search of an arrestee's person and the area within his immediate control. *See United States v. Robinson*, 414 U.S. 218, 235 (1973) (holding that after "a lawful custodial arrest a full search of the person is not only an exception to the warrant requirement of the Fourth Amendment, but is also a 'reasonable' search under that Amendment"); *see also United States v. Campbell*, 486 F.3d 949, 955 (6th Cir. 2007) (stating that "[o]nce a lawful arrest has been made, the police officer is permitted to search the individual"). The area "within a person's immediate control" includes "the area from within

which he might gain possession of a weapon or destructible evidence." *Northrop v. Trippett*, 265 F.3d 372, 379 (6th Cir. 2001). The officers "may seize both contraband and any instrumentalities, fruits, or evidence of a crime that they discover in the course of the search." *United States v. Stewart*, 315 F. App'x 554, 559 (6th Cir. 2009) (citing *United States v. Edwards*, 415 U.S. 800, 802-05 (1974)).

After reviewing the briefs, the above-stated standards, and the evidence and argument presented at the evidentiary hearing on November 26, 2019, the Court has made the following rulings as announced, and for the reasons stated on the record, at the evidentiary hearing.

First, the Court **DENIES** Defendant's Motion to Suppress (Doc. No. 32) with respect to evidence seized from Defendant's person as the result of the traffic stop, arrest, and warrantless search of Defendant's person. Second, with respect to the fruits of the warrantless search of the automobile and with respect to Defendants statements, the Court **DENIES** the Motion without prejudice. The Court finds these issues are now moot because the Government represented at the hearing that it would not seek to admit this evidence. Defendant may raise these issues again if the Government ever reverses course and decides to attempt to rely on the fruits of the search of the automobile or upon Defendant's statements.

IT IS SO ORDERED.

Eli Richardson

ELI RICHARDSON
UNITED STATES DISTRICT JUDGE